

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

LEE OLIVER COUNTS

PLAINTIFF

v.

Case No. 6:20-cv-6021

OFFICER MCADDO and
OFFICER WOODALL

DEFENDANTS

ORDER

Before the Court is the Report and Recommendation filed March 25, 2020, by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. ECF No. 6. Plaintiff, representing himself in this action, has responded with timely objections. ECF No. 7. The Court finds the matter ripe for consideration.

Pursuant to 42 U.S.C. § 1983, Plaintiff brings this action against Defendants in their individual capacities. To state a claim under 42 U.S.C. § 1983, Plaintiff must allege that Defendants acted under color of state law and that the alleged wrongful conduct deprived Plaintiff of a constitutionally protected federal right. *Zutz v. Nelson*, 601 F.3d 842, 848 (8th Cir. 2010). Plaintiff alleges that he was falsely imprisoned after he was arrested on state charges that were later *nolle prossed*. Plaintiff also alleges that he was slandered by Defendants. Both false imprisonment and slander are tort claims under Arkansas law and do not arise under the United States Constitution. *See King v. Beavers*, 148 F.3d 1031, 1034 (8th Cir. 1998); *Ellingburg v. Lucas*, 518 F.2d 1196, 1197 (8th Cir. 1975). Thus, these claims are not actionable under 42 U.S.C. § 1983. Accordingly, Judge Bryant recommends that Plaintiff's complaint be dismissed without prejudice, and the Court agrees.

The objections that Plaintiff filed are not responsive to the Report and Recommendation.

Plaintiff cites to Federal Rule of Civil Procedure 6 regarding how time is computed under the Federal Rules and appears to discuss how some fourteen-day deadline should be calculated. The Court cannot ascertain which deadline Plaintiff is referring to or how such deadline relates to the Report and Recommendation. Plaintiff does not address the issue of whether his claims are actionable under 42 U.S.C. § 1983.

Accordingly, based on its own *de novo* review, the Court overrules Plaintiff's objections and adopts the instant Report and Recommendation (ECF No. 6) *in toto*. Plaintiff's complaint is **DISMISSED WITHOUT PREJUDICE**. The Clerk is directed to place a 28 U.S.C. § 1915(g) flag on this case.

IT IS SO ORDERED, this 13th day of October, 2020.

/s/ Susan O. Hickey
Susan O. Hickey
Chief United States District Judge